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**AN ORDINANCE BY COUNCIL MEMBER HOWARD SHOOK**

**AN ORDINANCE TO AMEND CHAPTER 10, ARTICLE I, SECTION 10-1 OF THE CITY OF ATLANTA CODE OF ORDINANCES TO CREATE THE DEFINITION OF CITY FOOD MARKET, AND TO AMEND SECTION 10-88.1 OF THE CITY OF ATLANTA CODE OF ORDINANCES SO AS TO CREATE DISTANCE REQUIREMENTS FOR THE SALE OF BEER AND/OR WINE FROM CITY FOOD MARKETS AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Atlanta has an interest in protecting the public safety and general welfare and is able to do so through the regulation of the sale of beverage alcohol; and

**WHEREAS**, it is the stated purpose of the City's Alcohol Code that the City establishes reasonable and ascertainable standards for the regulation and control of the licensing and sales of alcohol while preserving residential areas and promoting desirable living conditions and sustaining stability of neighborhoods and property values;

**WHEREAS**, as portions of the City of Atlanta have become more densely populated with residences, there has become an increased demand for retail grocery supermarkets; and

**WHEREAS**, the location of retail grocery supermarkets within walking distance of structures in residential use, by promoting pedestrian travel, reduces motor vehicle traffic on the city streets and provides valuable services which support residential in-town living; and

**WHEREAS**, recently, new retail grocery supermarket businesses have entered the City of Atlanta grocery store market, providing additional grocery store shopping choices for the citizens of Atlanta and promoting competitive pricing amongst grocers; and

**WHEREAS**, retail grocery supermarkets in the City of Atlanta provide many full time jobs for the citizens of the City of Atlanta; and

**WHEREAS**, some retail grocery supermarkets in the City of Atlanta have attempted to distinguish themselves in the marketplace by providing specialty food items not traditionally found in retail grocery supermarkets; and

**WHEREAS**, in order to provide a full range of products to its customers, in many instances retail grocery supermarkets offer for sale, beer and wine by the package to their customers; and

**WHEREAS**, as portions of the City of Atlanta have become more densely inhabited, it has become increasingly more difficult to find suitably zoned real property upon which to locate retail grocery supermarkets which are nearby to structures in residential use and other uses

convenient to grocery store shoppers which also comply with the distance requirements of the City's Alcohol Code, to sell beer and wine by the package; and

**WHEREAS**, the City of Atlanta has promulgated legislation which specifically provides that package stores that derive less than 5% of their gross receipts from the sale of alcoholic beverages shall be exempt from the requirement that there must be at least 600 feet between stores licensed to sell alcohol by the package and structures in residential use, public or private schools, public or private parks or recreation facilities, public library branches, churches or similar places of worship, public or private hospital or mental health care facilities, and child care or day care facilities; and

**WHEREAS**, the demand for higher priced wines in retail grocery supermarkets has increased thereby making it more difficult for retail grocery supermarkets to maintain gross receipts from the sale of alcoholic beverages to less than 5% of their total gross receipts; and

**WHEREAS**, the City of Atlanta wishes to enact legislation which provides for the opportunity for City Food Markets to open in the City;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:**

**SECTION 1:**

That Chapter 10, Article I, Section 10-1, of the City of Atlanta Code of Ordinances be amended by adding the following definition:

*City Food Market* means a retail grocery supermarket which (a) does not sell or offer for sale any of the following: gasoline, diesel fuel or tire, distilled spirits, tobacco products, lottery tickets or related games of chance or malt beverages by the keg; (b) does not provide for the on premises use of coin operated amusements; (c) maintains at all times that it is open to the public, an inventory of saleable food products, including meat, dairy, vegetable, fruit, dry goods and beverages, with a minimum, cumulative cost of goods sold of such food products of at least \$225,000; (d) has an interior floor area of at least 10,000 square feet and not more than 30,000 square feet, of which more than 50% of such interior floor area is devoted to the display for sale of food products; (e) employs not less than 50 employees who work at least thirty five (35) hours per week on the premises; and (f) derives less than 20% of its gross receipts from the sale of malt beverages and wine.

**SECTION 2:**

That Chapter 10, Article I, Section 10-1, of the City of Atlanta Code of Ordinances be amended by adding the following sentence that appears in boldface below to the end of the current definition of ~~A~~package store<sup>u</sup>:

*Package store* means an establishment engaged in the retail sale of packaged alcoholic beverages, such as ale, beer, wine, and whiskey for consumption off the premises and at which on-premises consumption is specifically prohibited, as distinct from a bar, restaurant or similar establishment which is licensed for the retail sale of alcoholic beverages of any type by the drink and/or for consumption on the premises. The term "package store" is considered synonymous with the term "liquor store". A package store shall include any premises classified as Industry No. 5921 in the Standard Industrial Classification (SIC) Manual 1972, prepared by the Executive Office of the President, Office of Management and Budget. The term Apackage store@ shall not include a ~~wine specialty shop~~ and shall not include a **ACity Food Market@**.

### **SECTION 3:**

That Chapter 10, Article II, Section 10-88.1(b), of the City of Atlanta Code of Ordinances be amended by adding the following language that appears in boldface below:

(b) No package store, as defined in section 10-1, shall be located within the following distances of the specified other uses:

- (1) From any structures in residential use, 600 feet.
- (2) From any public or private school, 600 feet.
- (3) From any public or private park or recreation facility, 600 feet.
- (4) From any public library branch, 600 feet.
- (5) From any church or similar place of religious worship, 600 feet.
- (6) From any public or private hospital or mental health care facility, 600 feet.
- (7) From any child care or day care facility, 600 feet.

The distance in subsection (b)(1)--(7), notwithstanding the definition of distance contained in section 10-1, shall be measured in a straight line from the closest point of the property line of the site proposed to be occupied by the package store to the closest property line of any use identified above.

Package stores that derive less than five percent of their gross receipts from the sale of alcoholic beverages shall be exempt from the distance requirements set forth in subsection (b)(1)--(7) above.

In order to be exempt from the distance requirements set forth in subsection (b)(1)--(7) above, an applicant for a license to sell alcoholic beverages by the package which is not a wine specialty shop **or a City Food Market**, is required to file with the police department a

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sworn statement stating that it is the applicant's belief that the subject package store will derive less than five percent of the package store's gross receipts from the sale of alcoholic beverages. This statement shall accompany the original application for a license to sell alcoholic beverages by the package.

In order to obtain exempt status when renewing a license to sell alcoholic beverages by the package, the applicant for renewal must provide the police department with a statement from a certified public accountant that proves that during the preceding year, the package store did in fact derive less than five percent of its gross receipts from the sale of alcoholic beverages. For the purposes of this section, revenue derived from the sale of lottery tickets or related games of chance shall not be calculated when determining gross receipts.

The failure of an applicant for renewal to provide the police department with a statement from a certified public accountant evidencing that the package store derived less than the percentage established by ordinance of gross receipts from the sale of alcoholic beverages, shall result in the denial of a renewed license.

#### **SECTION 4:**

That Chapter 10, Article II, Section 10-88.1, of the City of Atlanta Code of Ordinances be amended by adding a new subsection (f) as follows:

(f) No City Food Market, as defined in section 10-1, shall be located within the following distance, as defined in section 10-1, of the following specified other uses:

- (1) From any other City Food Market, 600 feet
- (2) From any public or private school, 300 feet.
- (3) From any public or private park or recreation facility, 300 feet.
- (4) From any public library branch, 300 feet.
- (5) From any church or similar place of religious worship, 300 feet.
- (6) From any public or private hospital or mental health care facility, 300 feet.
- (7) From any child care or day care facility, 300 feet.

#### **SECTION 5:**

That Chapter 10, Article II, Section 10-88 (d), of the City of Atlanta Code of Ordinances be amended by adding the following language that appears in boldface below:

(d) The distance requirements and exemptions set forth in this section shall no longer apply to package stores which must meet the distance requirements set forth in section

10-88.1; provided, however, that the provisions of this section shall not apply to locations licensed prior to the effective date of this section or to renewals thereof. The distance requirements and exemptions set forth in this section shall not apply to wine specialty shops which must meet the distance requirements set forth in section 10-88.1 (e). **The distance requirements and exemptions set forth in this section shall not apply to City Food Markets which must meet the distance requirements set forth in section 10-88.1** ●.

**SECTION 6:**

Should any ordinance or part thereof be found to conflict with this ordinance or the provisions thereof, then those sections contained herein shall be deemed controlling.